

House Bill 1345 (AS PASSED HOUSE AND SENATE)

By: Representatives Jacobs of the 80th, Levitas of the 82nd, Wilkinson of the 52nd, Willard of the 49th, Henson of the 87th, and others

A BILL TO BE ENTITLED
AN ACT

1 To provide for a short title; to amend Chapter 2 of Title 26 of the Official Code of Georgia
2 Annotated, relating to standards, labeling, and adulteration of food, so as to repeal provisions
3 relating to kosher foods; to amend Part 2 of Article 15 of Chapter 1 of Title 10 of the Official
4 Code of Georgia Annotated, relating to the "Fair Business Practices Act of 1975," so as to
5 provide for oversight by the administrator of kosher food; to provide for definitions; to
6 provide for a kosher food disclosure statement; to provide for exceptions; to change
7 provisions related to the authority of the administrator to issue cease and desist orders or
8 impose civil penalties; to provide for related matters; to provide for effective dates; to repeal
9 conflicting laws; and for other purposes.

10 BE IT ENACTED BY THE GENERAL ASSEMBLY OF GEORGIA:

11 **SECTION 1.**

12 This Act shall be known and may be cited as the "Georgia Kosher Food Consumer Protection
13 Act."

14 **SECTION 2.**

15 Chapter 2 of Title 26 of the Official Code of Georgia Annotated, relating to standards,
16 labeling, and adulteration of food, is amended by striking in its entirety Article 11, relating
17 to kosher foods, and designating said article as "Reserved."

18 **SECTION 3.**

19 Part 2 of Article 15 of Chapter 1 of Title 10 of the Official Code of Georgia Annotated,
20 relating to the "Fair Business Practices Act of 1975," is amended by revising subsection (a)
21 of Code Section 10-1-392, relating to definitions, by adding new paragraphs to read as
22 follows:

23 "(14.1) 'Food' means articles used for food or drink for human consumption, chewing
24 gum, and articles used for components of any such article."

"(16.1) 'Kosher food disclosure statement' means a statement which:

(A) Discloses to consumers practices relating to the preparation, handling, and sale of any unpackaged food, or food packaged at the premises where it is sold to consumers, if the food is represented to be kosher, kosher for Passover, or prepared or maintained under rabbinical or other kosher supervision; and

(B) Complies with the provisions of subsections (b) through (e) of Code Section 10-1-393.11."

"(24.1) 'Presealed kosher food package' means a food package which bears a kosher symbol insignia and is sealed by the manufacturer, processor, or wholesaler at premises other than the premises where the food is to be sold to the public."

"(27.1) 'Representation regarding kosher food' means any direct or indirect statement, whether oral or written, including but not limited to an advertisement, sign, or menu and any letter, word, sign, emblem, insignia, or mark which could reasonably lead a consumer to believe that a representation is being made that the final food product sold to the consumer is kosher, kosher for Passover, or prepared or maintained under rabbinical or other kosher supervision."

SECTION 4.

Said part is further amended by adding a new Code section to read as follows:

"10-1-393.11.

(a) A person who makes a representation regarding kosher food shall prominently and conspicuously display on the premises on which the food is sold, in a location readily visible to the consumer, a completed kosher food disclosure statement which shall be updated within 14 days of any changes in the information required by subsections (b) through (e) of this Code section.

(b) A kosher food disclosure statement shall set forth the name and address of the establishment to which it applies and the date on which it was completed.

(c) A kosher food disclosure statement shall state in the affirmative or negative whether the person:

(1) Operates under rabbinical or other kosher supervision;

(2) Sells or serves only food represented as kosher;

(3) Sells or serves food represented as kosher, as well as food not represented as kosher;

(4) Sells or serves meat, dairy, and pareve food;

(5) Sells or serves only meat and pareve food;

(6) Sells or serves only dairy and pareve food;

(7) Sells or serves meat and poultry represented as kosher only if it is slaughtered under rabbinical or other kosher supervision and identified at the slaughterhouse to be sold as kosher;

(8) Represents kosher meat sold as 'Glatt kosher' or 'Glatt';

(9) Sells or serves seafood only if it has or had fins and removable scales;

(10) Keeps separate meat represented as kosher, dairy represented as kosher, pareve food represented as kosher, and food not represented as kosher;

(11) Uses separate utensils for meat represented as kosher, dairy represented as kosher, pareve food represented as kosher, and food not represented as kosher;

(12) Uses separate work areas for meat and poultry represented as kosher, dairy represented as kosher, pareve food represented as kosher, and food not represented as kosher;

(13) Sells or serves wine represented as kosher only if it has rabbinical supervision;

(14) Sells or serves cheese represented as kosher only if it has rabbinical supervision;

(15) Sells or serves food represented as kosher for Passover;

(16) Uses separate utensils for food represented as kosher for Passover and food not represented as kosher for Passover;

(17) Uses separate work areas for food represented as kosher for Passover and food not represented as kosher for Passover;

(18) Keeps food represented as kosher for Passover free from and not in contact with food not represented as kosher for Passover; and

(19) Prepares food represented as kosher for Passover under rabbinical or other kosher supervision.

(d) If a kosher food disclosure statement has an affirmative response to the question contained in paragraph (15) of subsection (c) of this Code section, responses to the questions contained in paragraphs (16) through (19) shall be required; otherwise, such responses shall not be required.

(e) A person who represents to the public that any unpackaged food for sale or a place of business is under rabbinical or other kosher supervision shall also provide in the kosher food disclosure statement the following information about the rabbinical or other kosher supervision:

(1) The name of the supervising rabbi, agency, or other person;

(2) The address of the supervising rabbi, agency, or other person;

(3) The telephone number of the supervising rabbi, agency, or other person;

(4) The frequency with which the supervising rabbi, agency, or other person visits the establishment; and

(5) Any relevant affiliations of the supervising rabbi, agency, or other person that the person making the disclosure wishes to disclose.

(f) The administrator shall promulgate a form for the kosher food disclosure statement and any additional information that the administrator deems reasonable and necessary for full and complete disclosure. The completion and prominent and conspicuous display of such form shall constitute compliance with subsections (b) through (e) of this Code section.

(g) No person shall display a kosher food disclosure statement or other written document stating that a rabbi, agency, or other person certifies food or a place of business as kosher or kosher for Passover if no such certification is being provided. The person making the display shall remove the statement or document if the rabbi, agency, or other person sends a notice via certified mail or statutory overnight delivery directed to the person making the display that no such certification is being provided.

(h) It shall be unlawful for any person to:

(1) Fail to complete and prominently and conspicuously display a kosher food disclosure statement as required by this Code section;

(2) Otherwise fail to comply with this Code section; or

(3) Knowingly or intentionally, with intent to defraud, make a false affirmation or disclosure in a kosher food disclosure statement.

(i) This Code section shall not apply to:

(1) Food sold in a presealed kosher food package; or

(2) Food represented as 'kosher-style' or 'kosher-type.'"

SECTION 5.

Said part is further amended by revising subsection (a) of Code Section 10-1-397, relating to the authority of the administrator to issue cease and desist orders or impose civil penalties, as follows:

"(a) Whenever it may appear to the administrator that any person is using, has used, or is about to use any method, act, or practice declared by ~~Code Section 10-1-393, 10-1-393.1, 10-1-393.2, 10-1-393.3, 10-1-393.4, 10-1-393.5, or 10-1-393.6~~ this part or by regulations made under Code Section 10-1-394 to be unlawful and that proceedings would be in the public interest, whether or not any person has actually been misled, he or she may:

(1) Subject to notice and opportunity for hearing in accordance with Code Section 10-1-398, unless the right to notice is waived by the person against whom the sanction is imposed, take any or all of the following actions:

(A) Issue a cease and desist order prohibiting any unfair or deceptive act or practice against any person; or

(B) Issue an order against a person who willfully violates this part, imposing a civil penalty up to a maximum of \$2,000.00 per violation; or

(2) Without regard as to whether the administrator has issued any orders under this Code section, upon a showing by the administrator in any superior court of competent jurisdiction that a person has violated or is about to violate this part, a rule promulgated under this part, or an order of the administrator, the court may enter or grant any or all of the following relief:

(A) A temporary restraining order or temporary or permanent injunction;

(B) A civil penalty up to a maximum of \$5,000.00 per violation of this part;

(C) A declaratory judgment;

(D) Restitution to any person or persons adversely affected by a defendant's actions in violation of this part;

(E) The appointment of a receiver, auditor, or conservator for the defendant or the defendant's assets; or

(F) Other relief as the court deems just and equitable."

SECTION 6.

This Act shall become effective on July 1, 2010; provided, however, that Section 2 of this Act shall become effective upon its approval by the Governor or upon its becoming law without such approval.

SECTION 7.

All laws and parts of laws in conflict with this Act are repealed.